

August 17, 2010
Jim and Kathy Quinn
299 School St.
Acton MA, 01720
RE: Proposed Cell Tower at 5 Craig Rd.

Dear Planning Board:

I am submitting the following statement into the record for the Planning Board's August 17, 2010 meeting.

- A memo from Roland Bartl to the Planning Board dated July 1, 2010, which is included in the Agenda for this meeting, states that Town Counsel's review of SBA Tower's application for Personal Wireless Services "revealed a serious question as to the eligibility of this special permit application before the Planning Board". The memo defines personal wireless services as they apply to the Federal Telecommunications Act (TCA) and states that "Counsel's research shows that Clearwire does not appear to fall under any of these three regulatory categories and thus would not qualify for the especial local zoning treatment that section 704 of the TCA requires and that zoning bylaw section 3.10 provides. With Clearwire as the only locator on the proposed tower, the entire proposed facility is questionable under the Federal definitions for personal wireless facilities."
- We strongly agree with Counsel's observations. In addition to the findings of the Town's Counsel, we also question whether Clearwire's technology falls under the TCA due to the fact that it is new technology and courts have agreed that "the [Telecommunications Act] does not require municipalities to pave the way for every incremental advance in technology." (Iowa Wireless Services v. City of Moline, IL, 29 F.Supp.2d 915, 923 (C.D. Ill. 1998). The town's own expert, David Maxson, emphasized the newness of the technology in the last meeting (6/08/10) stating that "Clearwire is a different Technology; high band with broadband capability. The internet does not handle voice system. The technology is so new, it is not available." Based on this information we urge that you reject SBA Tower's permit application because it would set precedent that Acton would then have to accommodate each new technology or be liable for discrimination against future applicants.
- SBA Tower's permit application for the Town landfill requested a 100' x 100' fenced in area, much larger than the area requested for the 5-7 Craig Road location. At the Planning Board meeting on 6/08/10, the applicant's lawyer explained that the smaller size fenced in lot on Craig Road allowed for future "build out". Build out equates to expansion which would enable SBA Towers to construct multiple monopoles on the site. In addition, the applicant's lawyer referenced that "the revised plans show the 140' foot high concealed antenna monopole (CAM) tower design which is the most aesthetic alternative and can be extended to 170 feet". Can be means will be. I believe the applicant is playing "fast and loose" with this process and this is simply a case of SBA Towers attempting to snare a piece of property that will give them the means to cram as

many towers on that piece of property as they possibly can. Good town planning would reject a cluster of poles in a location with such high visibility, plus, SBA's plans as described would surely interfere with the light industrial use currently on the site and this should be of concern to the Planning Board as well.

- At the Board of Selectmen's meeting on 6/21/10 Selectman Freidrichs pointed out in reference to locating a cell tower on this stretch of Route 2 that "drivers receive an impression of Acton from the view coming around the Concord rotary." (The Beacon 06/24/10) What is the impression when the first landmark visible upon entering Acton from the East is a 170 foot cell tower? Or, as SBA has indicated is their desire, a cluster of 170 ft. cell towers? The proposed location of this tower flies in the face of recommendations made in the Acton Reconnaissance Report which references that "preservation of these fields (Route 2 Gateway Agricultural Fields) is a top priority in Acton's 2002 – 2007 OSRP (Open Space and Recreation Plan)" (see Planning Board meeting notes 3/16/10, 047B - IV. - Quinn comments - 3-12-10).
- At the same meeting, BOS "Selectman Chair Rosensweig-Morton agreed that a cell tower would have a negative visual impact and said she would like to avoid taking action against the wishes of Acton residents, many of whom have objected to living and working in proximity to cell towers." (The Beacon 06/24/10) Again, we strongly agree with Selectman Chair Rosensweig-Morton's assessment and ask that the Board reject the SBA Tower's permit application for a cell tower on Craig Rd.

Sincerely,

Jim and Kathy Quinn